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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,179	10/23/2003	Daniel A. Henderson	3052/001	6485

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Tendler, Robert K.  
Law Offices of Robert K. Tendler  
65 Atlantic Ave  
Boston, MA 02110

EXAMINER

ANWAH, OLISA

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/692,179

Applicant(s)

HENDERSON, DANIEL A.

Examiner

Olisa Anwah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) 1-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 49, 50, 52-54, 56, 57, 59, 60, 62-67, 69-72, 74-76, 78, 79, 81-83 and 85-90 are rejected under 35 U.S.C. § 102(b) as being anticipated by Breeden, U.S. Patent No. 4,994,797 (hereinafter Breeden).

Regarding claim 49, Breeden discloses a method of messaging visual image data in a wireless image communication system (see Figure 1), the method comprising:

receiving a message (see any further message from column 2) associated with a call from a calling party (see units 11, 12 and 13 from Figure 1) to a specified called party having a wireless portable communication device (see paging receiver to be paged from column 2) adapted to receive caller identifying information (see call-back number from column 2), the message including visual image data;

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storing (see 410 from Figure 4A) the message in a memory;  
and

forwarding (see 520 from Figure 5) the message to the  
wireless portable communication device along with a unique  
identifier (see source tag from abstract) associated with the  
wireless portable communication device.

Regarding claim 50, see Figure 5.

Regarding claim 52, see column 7.

Regarding claim 53, see Figure 4.

Regarding claim 54, see column 7.

Regarding claim 56, see column 7.

Regarding claim 57, see Figure 4.

Regarding claim 59, Breeden discloses an apparatus for  
messaging using visual image data in a wireless image  
communication system (see Figure 1), the apparatus comprising:

a receiver operably coupled to receive a message (see any  
further message from column 2) associated with a call from a  
calling party (see units 11, 12 and 13 from Figure 1) to a  
specified called party having a wireless portable communication  
device (see paging receiver to be paged from column 2) adapted

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to receive caller identifying information (see call-back number from column 2), the message including visual image data;

a memory; and

a controller operably coupled to store (see 410 from Figure 4A) the message in the memory and forward (see 520 from Figure 5) the message to the wireless portable communication device along with a unique identifier (see source tag from abstract) associated with the wireless portable communication device.

Regarding claim 60, see Figure 5.

Regarding claim 62, see column 7.

Regarding claim 63, see Figure 4.

Regarding claim 64, see column 7.

Regarding claim 65, see Figures 4 and 5.c

Regarding claim 66, see Figure 4.

Regarding claim 67, see Figure 4.

Regarding claim 69, see Figure 1.

Regarding claim 70, see Figure 1.

Regarding claim 71, Breeden discloses a wireless image communication system (see Figure 1) comprising:

a wireless communication network; and

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a message center device, operably coupled to the wireless communication network, for receiving a message (see any further message from column 2) associated with a call from a calling party (see units 11, 12 and 13 from Figure 1) to a specified called party having a wireless portable communication device (see paging receiver to be paged from column 2) adapted to receive caller identifying information (see call-back number from column 2), storing (see 410 from Figure 4A) the message in a memory, and subsequently forwarding (see 520 from Figure 5) the message to the wireless portable communication device over the wireless communication network along with a unique identifier (see source tag from abstract) associated with the wireless communication device, wherein the message includes visual image data.

Regarding claim 72, see Figure 5.

Regarding claim 74, see column 7.

Regarding claim 75, see Figure 4.

Regarding claim 76, see column 7.

Regarding claim 78, see column 7.

Regarding claim 79, see Figure 4.

Regarding claim 81, see Figure 1.

Regarding claim 82, see Figure 1.

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Regarding claim 83, Breeden discloses a method of messaging using visual image data in a wireless image communication system (see Figure 1), the method comprising:

receiving a message (see any further message from column 2) associated with a call from a calling party (see units 11, 12 and 13 from Figure 1) to a specified called party having a wireless portable communication device (see paging receiver to be paged from column 2) adapted to receive caller identifying information (see call-back number from column 2), the message including visual image data representative of the calling party;

storing (see 410 from Figure 4A) the message in a memory;  
and

forwarding (see 520 from Figure 5) the message to the wireless portable communication device along with a unique identifier (see source tag from abstract) associated with the wireless portable communication device.

Regarding claim 85, see Figure 4.

Regarding claim 86, see column 7.

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Regarding claim 87, Breeden discloses a method of messaging using visual image data in a wireless image communication system (see Figure 1), the method comprising:

receiving a message (see any further message from column 2) associated with a call from a calling party to a specified called party (see units 11, 12 and 13 from Figure 1) having a wireless portable communication device (see paging receiver to be paged from column 2) adapted to receive caller identifying information (see call-back number from column 2), the message including graphic image data;

storing (see 410 from Figure 4A) the message in a memory; and

forwarding (see 520 from Figure 5) the message to the wireless portable communication device along with a unique identifier (see source tag from abstract) associated with the wireless portable communication device.

Regarding claim 88, see Figure 5.

Regarding claim 89, see Figure 4.

Regarding claim 90, see column 7.



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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 58, 68 and 80 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Breeden in view of Frank et al, U.S. Patent No. 5,285,496 (hereinafter Frank).

Regarding claim 58, Breeden does not teach forwarding the message comprises encrypting the message to form an encrypted message and forwarding the encrypted message to the wireless portable communication device. All the same, Frank discloses this feature (see abstract). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Breeden with the encrypted messages of Frank. This modification would have improved the system's reliability by providing a secure paging system as suggested by Breeden (see title).

Claim 68 is rejected for the same reasons as claim 58.

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Claim 80 is rejected for the same reasons as claim 58.

5. Claims 55 and 77 are rejected under 35 U.S.C § 103(a) as being unpatentable over Breeden in view of Kane et al, U.S. Patent No. 5,315,635 (hereinafter Kane).

Regarding claim 55, Frank does not clearly explain the method of claim 49, further comprising at least one of compressing the message prior to storage in the memory and compressing the memory prior to forwarding the message. Regardless, Kane discloses this limitation (see column 17). As a result, it would have been obvious to one of ordinary skill in the art to modify Breeden with the message compression technique of Frank. This modification would have improved the system's efficiency by reducing the total amount of time that a message requires for transmission over the paging channel as suggested by Kane (see column 17).

Claim 77 is rejected for the same reasons as claim 55.

6. Claims 51, 61, 73 and 84 are rejected under 35 U.S.C § 103(a) as being unpatentable over Breeden in view of Consumer Electronics Show: IBM Cellular Phone/PC, JAN 1993 (hereinafter Consumer).

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Regarding claim 51, Breeden fails to teach the message is a video telephone message, and wherein the visual image data includes video image data. Despite Breeden's shortcomings, Consumer discloses this nifty feature (see MPEG from page 1). For this reason, it would have been obvious to one of ordinary skill in the art to modify Breeden with the personal communicator discussed by Consumer. This modification would have improved the system's flexibility by allowing users to send various messages as suggested by Consumer (see page 1).

Claim 61 is rejected for the same reasons as claim 51.

Claim 73 is rejected for the same reasons as claim 51.

Claim 84 is rejected for the same reasons as claim 51.

### **Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone numbers for the organization where this application or proceeding is assigned

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are 571-273-8300 for regular communications and 571-273-8300 for  
After Final communications.

Any inquiry of a general nature or relating to the status  
of this application or proceeding should be directed to the  
receptionist whose telephone number is 571-272-2600.

O.A.

Olisa Anwah  
Patent Examiner  
November 9, 2006

Olisa Anwah